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June 24, 2019

VIA ELECTRONIC FILING


Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Jay Larry Moyer v. PPL Electric Utilities Corporation
Docket No. C-2017-2629683

Dear Secretary Chiavetta:

Enclosed for filing is the Answer of PPL Electric Utilities Corporation to the Supplement to the Complainant's Second Petition to Reopen Proceeding in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Devin Ryan

DTR/jl
Enclosures

cc: Honorable Joel H. Cheskis
Certificate of Service

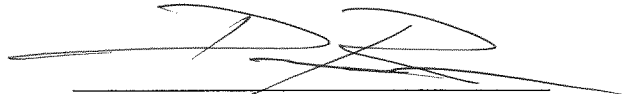
CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA E-MAIL &
REGULAR MAIL**

Jay Larry Moyer
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Philadelphia, PA 19144
E-mail:gtown73@hotmail.com

Date: June 24, 2019



Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jay Larry Moyer,	:	
	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2017-2629683
	:	
PPL Electric Utilities Corporation,	:	
	:	
Respondent.	:	

**ANSWER OF PPL ELECTRIC UTILITIES CORPORATION TO
THE SUPPLEMENT TO THE COMPLAINANT’S SECOND PETITION TO
REOPEN PROCEEDING**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to 52 Pa. Code §§ 5.61(e) and 5.571(c), PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) hereby submits its Answer to the Supplement to the Second Petition to Reopen Proceeding (“Supplement to Second Petition”) filed by Jay Larry Moyer (“Complainant”) and served via first class mail on May 30, 2019, in the above-captioned proceeding.¹

The Pennsylvania Public Utility Commission (“Commission”) should deny the Complainant’s Second Petition, as supplemented.² This is the third time that PPL Electric has been forced to respond to the Complainant’s unsupported attempts to introduce and rely on extra-record evidence since the hearing record closed. Indeed, as with his first Petition to Reopen the Proceeding and his original second Petition to Reopen the Proceeding, the Complainant has

¹ Because the Complainant served the Supplement to Second Petition via first class mail only, three days were added to the 20-day response period. *See* 52 Pa. Code §§ 1.56(b), 5.65(a).

² As of the date of this Answer, the Complainant’s first Petition to Reopen Proceeding remains pending before the Commission.

completely failed to: (1) prove that there have been “material changes of fact or of law” that “have occurred since the conclusion of the hearing” or that the “public interest requires” reopening the record (52 Pa. Code § 5.571(b), (d)); and (2) demonstrate “good cause” for the admittance of this evidence (52 Pa. Code § 5.431(b)).

First, the Complainant fails to recognize that the May 9, 2018, and May 10, 2019 dates shown in his year-end cash-out letter correspond to the ends of the billing periods shown in his May 2018 and May 2019 bills, not the “Balance as of” dates of May 14, 2018, and May 13, 2019 he relies upon.

Second, PPL Electric did install a new automated metering infrastructure (“AMI”) meter for the Complainant’s solar account. However, this is not a material change of fact because it simply resulted in the Complainant’s solar bills displaying the kWh of excess generation produced by his solar facilities. The rest of the information and format of the bills, which the Commission and the presiding administrative law judges have upheld as being sufficient and lawful, did not change. Moreover, the Complainant has continuously advocated for this information to be presented on his bills. Thus, if anything, this change undercuts the Complainant’s argument that the information presented on the bills is lacking.

Third, the Complainant’s latest attempt to introduce a copy of Duquesne Light Company’s (“Duquesne Light”) virtual meter aggregation bill should be rejected. The Complainant has repeatedly attempted to introduce this exhibit in his First and Second Complaint proceeding and the instant Fourth Complaint proceeding. Each time, it is excluded because it is irrelevant to this case. As such, the Commission should disregard it once again.

Finally, reopening the proceeding to admit this “evidence” would prejudice the Company and deny it due process because PPL Electric has no opportunity now to present evidence in

rebuttal. The instant matter is ripe for the Commission's disposition and should not be further delayed by the Complainant's repeated and frivolous attempts to introduce and rely on extra-record evidence that is irrelevant to the issues to be decided.

In support thereof, PPL Electric states as follows:

I. BACKGROUND

1. On October 18, 2017, PPL Electric was served with the above-captioned Formal Complaint filed by the Complainant with the Commission. The Complainant is a participant in PPL Electric's virtual meter aggregation program, under which the excess generation produced by his solar generating facilities, if any, is used to offset the usage at his residence. This Formal Complaint is the Fourth Complaint that the Complainant has filed against PPL Electric regarding the billing process and payments for virtual meter aggregation electric service provided to the Complainant's house and detached solar array. In this Fourth Complaint proceeding, the Complainant generally has alleged that PPL Electric failed to bill and apply the credits for excess generation correctly.

2. On November 7, 2017, PPL Electric filed its Answer and Preliminary Objections to the Fourth Complaint. In its Preliminary Objections, the Company argued that the Complainant's request for monetary damages be stricken as impertinent matter.

3. On November 13, 2017, the Complainant filed an Answer to PPL Electric's Preliminary Objection as well as a letter correcting the page of a bill submitted with his Fourth Complaint.

4. On December 21, 2017, Administrative Law Judge Joel H. Cheskis ("ALJ") issued his Order granting PPL Electric's Preliminary Objections to strike the Complainant's request for monetary damages as impertinent matter.

5. On January 18, 2018, a Notice was issued scheduling a telephonic hearing for March 6, 2018, before the ALJ. Also on January 18, 2018, a Prehearing Order was issued by the ALJ setting forth certain rules and requirements for the proceeding.

6. On January 25, 2018, a Corrected Notice was issued turning the telephonic hearing into an in-person hearing on March 6, 2018, before the ALJ in Harrisburg, Pennsylvania.

7. The in-person evidentiary hearing was held as scheduled on March 6, 2018, at 10:00 AM.

8. On March 9, 2018, the ALJ issued a Briefing Order setting forth requirements for the briefs to be submitted in this proceeding. Under the Briefing Order, Main Briefs were due on or before April 27, 2018, and Reply Briefs were due on or before May 18, 2018.

9. On April 20, 2018, PPL Electric filed a letter requesting one-week extensions of the briefing deadlines, such that the Main Briefs would be due on or before May 4, 2018, and Reply Briefs would be due on or before May 25, 2018.

10. By correspondence dated April 20, 2018, the ALJ granted PPL Electric's request for one-week extensions to the briefing deadlines.

11. On September 6, 2018, the ALJ issued his Initial Decision ("ID") dismissing the Fourth Complaint.

12. On September 24, 2018, the Complainant filed his Exceptions to the ID.

13. On October 9, 2018, PPL Electric filed Replies to the Complainant's Exceptions.

14. On October 25, 2018, the Complainant filed his Petition to Reopen Proceeding and served it on the Company via first class mail only.

15. On November 7, 2018, PPL Electric filed an Answer to the Complainant's Petition to Reopen Proceeding.

16. On December 12, 2018, the Complainant filed his Second Petition to Reopen Proceeding.

17. On December 26, 2018, PPL Electric timely filed an Answer to the Complainant's Second Petition to Reopen Proceeding.

18. On May 30, 2019, the Complainant filed his Supplement to the Second Petition to Reopen Proceeding.

II. APPLICABLE LEGAL STANDARDS

19. The Commission's regulations specify that "at any time after the record is closed but before a final decision is issued, a party may file a petition to reopen the proceeding for the purpose of taking additional evidence." 52 Pa. Code § 5.571(a).

20. Such a petition "must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing." *Id.* § 5.571(b).

21. Further, "[t]he record may be reopened upon notification to the parties in a proceeding for the reception of further evidence if there is reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of the proceeding." *Id.* § 5.571(d).

22. The Commission's regulations also state that "[a]fter the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion." *Id.* § 5.431(b).

23. A modification of or supplement to an application, complaint, petition or other pleading shall be deemed as an amendment to the pleading, and must comply with the requirements of this subchapter relating to the pleading amended. *See id.* § 5.91(a).

24. In general, an answer to an amendment, modification or supplement to an application, complaint, petition or other pleading shall be filed with the Commission within 20 days after the date of service of the amendment, modification or supplement, unless for cause the Commission or presiding officer with or without motion prescribes a different time. *See id.* § 5.65(a).

III. ANSWER TO THE SUPPLEMENT TO THE SECOND PETITION TO REOPEN PROCEEDING

25. The Complainant's Supplement to Second Petition should be denied because he has completely failed to demonstrate that there have been material changes of fact or law since the record closed, that the public interest requires the reopening of the record, and that good cause exists for the admittance of his evidence.

26. First, the Complainant erroneously claims that the dates in the year-end cash-out letter do not correspond to his bills. Indeed, the Complainant fails to recognize that the May 9, 2018, and May 10, 2019 dates shown in his year-end cash-out letter correspond to the ends of the billing periods shown in his May 2018 and May 2019 bills, not the "Balance as of" dates of May 14, 2018, and May 13, 2019 he relies upon.

27. Second, PPL Electric's installation of a new AMI meter for the Complainant's solar account is not a material change of fact for purposes of this proceeding. It simply resulted in the Complainant's solar bills displaying the kWh of excess generation produced by his solar facilities.³ The rest of the information and format of the bills, which the Commission and the

³ The Company notes, however, that his solar account bills do not show the actual "delivered" kWh that is used to calculate the excess kWh to be applied to his residential account. This occurs because PPL Electric must zero out the Complainant's usage in order to produce the correct billing amount. For the Complainant, the "delivered" kWh is usually only 1 kWh in a billing period. For example, in his bill due May 29, 2019, that was attached to his Supplement to Second Petition, the "received" kWh was 484 kWh. However, the "delivered" kWh

presiding administrative law judges have upheld as being sufficient and lawful,⁴ did not change. Moreover, the Complainant has continuously advocated for this information to be presented on his bills. Thus, to the extent that the new bill is considered at all, it actually demonstrates that the Complainant has more information on his bills that he did previously.

28. Third, the Commission should reject the Complainant's latest attempt to introduce a copy of Duquesne Light's virtual meter aggregation bill. The Complainant has repeatedly attempted to introduce this exhibit in his First and Second Complaint proceeding and the instant Fourth Complaint proceeding.⁵ However, the bill is from another electric utility with an entirely different billing system and, therefore, was properly excluded because it is irrelevant to the Complainant's case.⁶

29. Furthermore, this bill is nothing new. As noted previously, the Complainant has tried, unsuccessfully, to introduce the Duquesne Light bill into the record several times. Indeed, the bill has been in his possession since at least April 21, 2015, when he tried to introduce it at the hearing on remand in the First and Second Complaint proceeding. Thus, this bill is not a change of fact or newly discovered evidence, and the Commission should disregard it once again.

30. Finally, reopening the proceeding to admit the Complainant's "evidence" would prejudice the Company and deny it due process because PPL Electric has no opportunity now to

for that billing period was 1 kWh, not 0 kWh as shown on his bill. Thus, the "Net" kWh of excess generation applied to his residential account was 483 kWh (484 kWh - 1 kWh).

⁴ See *Moyer v. PPL Elec. Utils. Corp.*, Docket Nos. C-2011-2273645, C-2014-2444864, at 22-29 (Order entered May 19, 2016); *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2015-2511904, at 19-21 (Apr. 12, 2018) (Initial Decision); *Moyer v. PPL Elec. Utils. Corp.*, Docket No. C-2017-2629683, at 22-24 (Aug. 24, 2018) (Initial Decision).

⁵ Specifically, the Complainant attempted to introduce the Duquesne Light bill at the evidentiary hearing on remand in his First and Second Complaint proceeding at Docket Nos. C-2011-2273645 and C-2014-2444864 (Apr. 21, 2015 Hearing Transcript at 119-20, 139), in his Exceptions to the Initial Decision on remand, and in his Appellant's Brief filed with the Commonwealth Court at Docket No. 882 C.D. 2016.

⁶ See April 21, 2015 Hearing Transcript, Docket Nos. C-2011-2273645 and C-2014-2444864, at 119-20.

present evidence in rebuttal. The instant matter is ripe for the Commission's disposition and should not be further delayed by the Complainant's repeated and frivolous attempts to introduce and rely on extra-record evidence that is irrelevant to the issues to be decided. Indeed, this is the third time that PPL Electric has been forced to respond to the Complainant's attempts to introduce and rely on extra-record evidence since the hearing record closed.

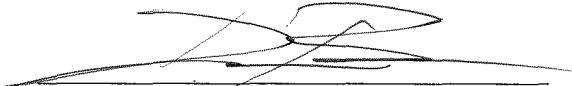
31. For these reasons, and as explained in PPL Electric's Answer to the Second Petition that is incorporated herein by reference, the Commission should deny the Complainant's Second Petition to Reopen Proceeding as supplemented.

IV. CONCLUSION

WHEREFORE, PPL Electric Utilities Corporation respectfully requests that the Pennsylvania Public Utility Commission deny Jay Larry Moyer's Second Petition to Reopen Proceeding as supplemented.

Respectfully submitted,

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Of Counsel:

Post & Schell, P.C.

Date: June 24, 2019

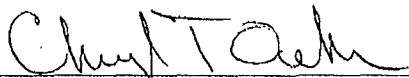
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Attorneys for PPL Electric Utilities Corporation

VERIFICATION

I, CHERYL T. OEHLER, being a Project Manager at PPL Electric Utilities Corporation, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect PPL Electric Utilities Corporation to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 6/24/19


Cheryl T. Oehler